

Alice Yeh/R2/USEPA/US

05/27/2005 03:27 PM

To Patricia Hick

cc EricJ Wilson, Ray Basso, Bill McCabe, Elizabeth Butler,  
Deborah Mellott

bcc

Subject Re: Fact Sheets for NY/NJ Quarterly Meetings

As we discussed, please edit/modify as necessary. I will be out of the office on 5/31, so please just forward any modifications you make to Eric Wilson. Thanks!



RA-Campbell 0605 mtg 1.wpd RA-Campbell 0605 mtg 2.wpd  
EricJ Wilson/R2/USEPA/US

EricJ Wilson/R2/USEPA/US

05/26/2005 12:57 PM

To Carole Petersen/R2/USEPA/US@EPA, John  
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cc Bill McCabe/R2/USEPA/US@EPA, Ray  
Basso/R2/USEPA/US@EPA, Courtney  
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Subject Fact Sheets for NY/NJ Quarterly Meetings

Fact sheets are needed for the following topics in preparation for the upcoming, quarterly meetings with NYSDEC and NJDEP. Please use the attached template in preparing these fact sheets. Fact sheets should be sent to me by **noon Tuesday, May 31**. If you have any questions let me know.

Eric  
x-3955

[attachment "Quarterly Meeting Fact Sheet.wpd" deleted by Alice Yeh/R2/USEPA/US]

#### NJDEP Agenda Items

- Status of FY05 Construction Completions (D. Forger)
- Status of Cooperative Agreement Deobligations (PSB)
- Passaic River: Status of State Participation in MOA (Passaic River Team)
- Passaic River: Status of State Participation in Interim Remedial Actions (Passaic River Team)

#### NYSDEC Agenda Items

- Status of FY05 Construction Completions (D. Forger)
- Status of Cooperative Agreement Deobligations (PSB)
- Status of the Vapor Intrusion Review Effort (NYRB)
- Onondaga Lake: Status of Lake Bottom ROD (NYRB)
- Onondaga Lake: State Participation in Tribal Consultation on Other Subsites (NYRB)

- Hudson River PCB Site Update (Hudson River Team)

## **NJDEP's Interim Removal Proposal for the Passaic River**

### **Issue**

During the February 2005 Quarterly meeting, Commissioner Campbell reported that he would be issuing a Directive in March to “dioxin PRPs” requiring them to dredge the Passaic River and dispose of the contaminated sediments in sub-aqueous pits in Newark Bay. He has not issued such a Directive to date.

### **Desired Outcome**

EPA and the federal Trustee agencies (NOAA and USFWS) have expressed opposition to Commissioner Campbell's plan. We would prefer to continue with the CERCLA-WRDA study that is on-going so that we may gather the data necessary to determine a comprehensive remedy, or to support the need for an interim remedy.

During the past several meetings, Commissioner Campbell has committed to discussing his plan with EPA, USACE, NOAA and USFWS before issuing a Directive. Instead of talking to each agency separately, we would propose a single meeting of all six agencies (including NJDOT) to discuss Passaic River issues overall.

### **Action Taken to Resolve Issue**

A letter to USACE, NOAA, USFWS, NJDEP and NJDOT is being drafted for George Pavlou's signature inviting senior managers to meet this Summer to discuss Passaic River issues.

### **Background**

Ex. 5; predecisional & deliberative; atty-client communication

- USACE's 2004 bathymetry survey has been compared with historical surveys to show up to 5 inches/year of sediment accumulation in the river channel and no accumulation (or potential scour) in the shoals.
- NJDOT's 2004 sediment cores in a small area in front of Diamond Alkali indicate that the top two feet of sediment are now less contaminated than when the river was last sampled, in the late 1990s. EPA will be collecting more sediment cores in Summer-Fall 2005 to more thoroughly characterize sediments.

Ex. 5; predecisional & deliberative; atty-client communication

- NJDOT and EPA's Fall 2005 dredging pilot will include monitoring to determine whether resuspension is a concern.

**Status of NJDEP's Participation in Passaic River  
Memorandum of Agreement (MOA)**

**Issue**

Ex. 5; predecisional & deliberative; atty-client communication

**Desired Outcome**

Ex. 5; predecisional & deliberative; atty-client communication

**Action Taken to Resolve Issue**

A request for NJDEP's comments is made at every monthly conference call of attorneys from EPA, USACE, NOAA, USFWS and the State of New Jersey.

**Background**

The last time that senior manager-level action was taken on the MOA was a 10/30/03 conference call between George Pavlou and Evan Van Hook, and an 11/19/03 letter from Regional Administrator Kenny to Commissioner Campbell requesting more cooperation on this issue.

**Other Related Issues**

Ex. 5; predecisional & deliberative; atty-client communication

CERCLA Enforcement Status: EPA signed an AOC, effective 6/22/04, with 31 PRPs to fund its \$10 million share of the study under CERCLA. The PRP group has made its first four payments

totaling \$6 million. The AOC will be amended soon to add nine more PRPs to the group.

WRDA Funding Status: USACE and NJDOT are cost-sharing equally their \$9 million-share of the study under WRDA. In FY04, USACE received \$400,000 in the Energy and Water Appropriations Act for this project as a whole (staff salaries and contracts). In FY05, USACE received \$250,000, which will prevent them from contributing much to field work in 2005. For FY06, several environmental groups, including Hudson River Foundation and NY/NJ Baykeeper among others, have written to the New Jersey Congressional Delegation to request that a Special Appropriation of \$2.3 million be added for USACE.

NJDOT is funded through the NY/NJ Joint Dredging Plan Fund and the Transportation Trust Fund. In FY04 and FY05, NJDOT expects to have approximately \$2 million available for the Lower Passaic River project, which will enable them to contribute to field sampling in 2005.

Passaic River Technical Progress:

- In July 2004, NJDOT collected sediment cores in front of the Diamond Alkali upland site, in preparation for a dredging pilot in Fall 2005. Results indicate that the top two feet of sediment in that small one-acre area now is less contaminated than what had been on the surface in the late 1990s. The results will be used to design the dredging pilot.
- EPA and NJDOT have started a hydrodynamic survey, to provide data on river salinity and flow. The survey will continue until Summer 2005. The data are one necessary component to our evaluation of whether contaminated sediments are still being transported into Newark Bay.
- USACE's 2004 bathymetry survey has been compared with historical surveys to show up to 5 inches/year of sediment accumulation in the river channel and no accumulation (or potential scour) in the shoals.
- April 2005 drafts of the work plan and field sampling plan to guide sampling for chemicals in sediment and water (planned for Summer 2005) were reviewed by all six agencies and interested stakeholders (PRP group and PVSC among others). A Sampling Workgroup meeting was held to discuss the draft plans on 4/21/05, and the comment period closed on 5/13/05.

Newark Bay: On 1/21/05, NRDC, Baykeeper and Greenfaith filed a lawsuit against the Corps, requesting the Court to issue a preliminary injunction that would stop the Corps from dredging Newark Bay, Arthur Kill & Kill Van Kull until it prepares a SEIS to address how EPA's designation of Newark Bay as an OU of Diamond Alkali Superfund Site affects the 50-ft deepening project. The US Attorney's Office is taking the lead on responding to the lawsuit. NRDC filed its brief on 2/16/05, and the United States filed its brief with an EPA (Pavlou) affidavit attached on 2/28/05. NRDC subsequently withdrew its motion for a preliminary injunction and filed a motion for a summary judgment on the merits of the case. This means that the court will be examining the Corps' administrative record to see whether NRDC's request for an SEIS is justified. This record review is likely to last until late June 2005.